

be exempt therefrom by reason of being introduced therein in original packages or otherwise. (May 9, 1902, ch. 784, § 1, 32 Stat. 193.)

CROSS REFERENCES

Colored oleomargarine, intrastate sales of, see section 347 et seq. of this title.

§ 26. Omitted

CODIFICATION

Section, which was from the appropriation acts of Jan. 18, 1927, ch. 39, 44 Stat. 984; May 16, 1928, ch. 572, 45 Stat. 548; Feb. 16, 1929, ch. 227, 45 Stat. 1198; May 27, 1930, ch. 341, 46 Stat. 424, and subsequent Department of Agriculture Appropriation Acts to and including act June 28, 1944, ch. 296, § 4, 58 Stat. 461, and related to inspection of food and other products, is covered by section 2256 of Title 7, Agriculture.

CHAPTER 2—TEAS

Sec.

41. Importation of tea inferior to standard.
42. Board of experts; appointment; term; vacancies; compensation.
43. Standards of purity; duplicate samples at customhouses and for importers and dealers.
44. Bonds of importers; examination; importations at ports having no examiner.
45. Permit for delivery; retention of inferior grades; reexamination; partial delivery.
46. Examiners; examination according to usages of trade.
- 46a. Deposit of fee before examination of tea.
47. United States Board of Tea Appeals; permit for delivery; exportation or destruction of inferior grades.
48. Reexamination; findings by examiner; assistance of experts.
49. Reimporting rejected teas; forfeiture.
50. Regulations.

§ 41. Importation of tea inferior to standard

It shall be unlawful for any person or persons or corporation to import or bring into the United States any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards provided in section 43 of this title, and the importation of all such merchandise is prohibited, except as provided in the Harmonized Tariff Schedule of the United States.

(Mar. 2, 1897, ch. 358, § 1, 29 Stat. 604; May 16, 1908, ch. 170, 35 Stat. 163; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; May 24, 1962, Pub. L. 87-456, title III, § 303(a), 76 Stat. 77; Aug. 23, 1988, Pub. L. 100-418, title I, § 1214(l), 102 Stat. 1158.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in text, is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

1988—Pub. L. 100-418 substituted “Harmonized Tariff Schedule of the United States” for “Tariff Schedules of the United States”.

1962—Pub. L. 87-456 inserted “except as provided in the Tariff Schedules of the United States” at end of first sentence, and struck out second sentence which

related to the importation under bond of tea inferior to standards, tea waste, tea siftings, or tea sweepings, under regulations prescribed by the Secretary of the Treasury, for the sole purpose of manufacturing theine, caffeine, or other chemical products whereby the identity and character of the original material is entirely destroyed or changed and that the bonds shall be subject to the approval only of the collector of customs at the port of entry.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

SHORT TITLE

Act July 12, 1943, ch. 221, title II, 57 Stat. 499, provided in part that act Mar. 2, 1897, which is classified generally to this chapter, may be cited as the “Tea Importation Act”.

TRANSFER OF FUNCTIONS

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Food and Drug Administration in Department of Agriculture and its functions, except those functions relating to administration of Insecticide Act of 1910 and Naval Stores Act, transferred to Federal Security Agency, to be administered under direction and supervision of Federal Security Administrator, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5.

The powers and duties of Secretary of the Treasury under this section were conferred upon Secretary of Agriculture by act May 31, 1920.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43, 45 of this title.

§ 42. Board of experts; appointment; term; vacancies; compensation

On or before February 15 of each year, the Secretary of Health and Human Services shall appoint a board, to consist of seven members, each of whom shall be an expert in teas, and who shall prepare and submit to him standard samples of tea. The persons so appointed shall be at all times subject to removal by the said Secretary, and shall serve for the term of one year. Vacancies in the said board occurring by removal, death, resignation, or any other cause shall be forthwith filled by the Secretary of Health and Human Services by appointment, such appointee to hold for the unexpired term. Said board shall appoint a presiding officer, who shall be the medium of all communications to or

from such board. Each member of said board shall receive as compensation the sum of \$50 per annum, which, together with all necessary expenses while engaged upon the duty herein provided, shall be paid by the Secretary.

(Mar. 2, 1897, ch. 358, § 2, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; July 12, 1943, ch. 221, title II, 57 Stat. 500; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

AMENDMENTS

1943—Act July 12, 1943, provided that the Administrator should pay the salaries and expenses of the board members.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see Transfer of Functions note set out under section 41 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43, 45 of this title.

§ 43. Standards of purity; duplicate samples at customhouses and for importers and dealers

The Secretary of Health and Human Services, upon the recommendation of the board of experts provided in section 42 of this title, shall fix and establish uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States, and shall procure and deposit in the customhouses of the ports of New York, Chicago, San Francisco, and such other ports as he may determine, duplicate samples of such standards. Said Secretary shall procure a sufficient number of other duplicate samples of such standards to supply the importers and dealers in tea at all ports desiring the same at cost. All teas, or merchandise described as tea, of inferior purity, quality, and fitness for consumption to such standards shall be deemed within the prohibition of section 41 of this title.

(Mar. 2, 1897, ch. 358, § 3, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare

[now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see Transfer of Functions note set out under section 41 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 45 of this title.

§ 44. Bonds of importers; examination; importations at ports having no examiner

On making entry at the customhouse of all teas, or merchandise described as tea, imported into the United States, the importer or consignee shall give a bond to the collector of the port that such merchandise shall not be removed from the warehouse until released by the collector, after it shall have been duly examined with reference to its purity, quality, and fitness for consumption. For the purpose of such examination samples of each line in every invoice of tea shall be submitted by the importer or consignee to the examiner, together with the sworn statement of such importer or consignee that such samples represent the true quality of each and every part of the invoice and accord with the specifications therein contained; or in the discretion of the Secretary of Health and Human Services, such samples shall be obtained by the examiner and compared by him with the standards established by this chapter. In cases where said tea, or merchandise described as tea, is entered at ports where there is no qualified examiner as provided in section 46 of this title, the consignee or importer shall in the manner aforesaid furnish under oath a sample of each line of tea to the collector or other revenue officer to whom is committed the collection of duties, and said officer shall also draw or cause to be drawn samples of each line in every invoice and shall forward the same to a duly qualified examiner as provided in said section. The bond required by this section shall also be conditioned for the payment of all customhouse charges which may attach to such merchandise prior to its being released or destroyed (as the case may be) under the provisions of this chapter.

(Mar. 2, 1897, ch. 358, § 4, 29 Stat. 605; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see Transfer of Functions note set out under section 41 of this title.

All offices of collector of customs in Bureau of Customs of Department of the Treasury ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to

Title 5, Government Organization and Employees. All functions of offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, also set out in the Appendix to Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45, 46 of this title.

§ 45. Permit for delivery; retention of inferior grades; reexamination; partial delivery

If, after an examination as provided in section 44 of this title, the tea is found by the examiner to be equal in purity, quality, and fitness for consumption to the standards provided in sections 41 to 44 of this title, and no reexamination shall be demanded by the collector as provided in section 47 of this title, a permit shall at once be granted to the importer or consignee declaring the tea free from the control of the customs authorities; but if on examination such tea, or merchandise described as tea, is found, in the opinion of the examiner, to be inferior in purity, quality, and fitness for consumption to the said standards the importer or consignee shall be immediately notified, and the tea, or merchandise described as tea, shall not be released by the customhouse, unless on a reexamination called for by the importer or consignee the finding of the examiner shall be found to be erroneous. Should a portion of the invoice be passed by the examiner, a permit shall be granted for that portion and the remainder held for further examination, as provided in said section 47.

(Mar. 2, 1897, ch. 358, § 5, 29 Stat. 605.)

TRANSFER OF FUNCTIONS

For abolition of the offices of collector of customs, see note set out under section 44 of this title.

§ 46. Examiners; examination according to usages of trade

The examination provided for by this chapter shall be made by a duly qualified examiner at a port where standard samples are established, and where the merchandise is entered at ports where there is no qualified examiner, the examination shall be made at that one of said ports which is nearest the port of entry, and that for this purpose samples of the merchandise, obtained in the manner prescribed by section 44 of this title, shall be forwarded to the proper port by the collector or chief officer at the port of entry. In all cases of examination or reexamination of teas, or merchandise described as tea, by examiners or the United States Board of Tea Appeals under the provisions of this chapter, the purity, quality, and fitness for consumption of the same shall be tested according to the usages and customs of the tea trade, including the testing of an infusion of the same in boiling water and, if necessary, chemical analysis.

(Mar. 2, 1897, ch. 358, § 7, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713.)

TRANSFER OF FUNCTIONS

For abolition of the offices of collector of customs, see note set out under section 44 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44 of this title.

§ 46a. Deposit of fee before examination of tea

No tea or merchandise described as tea shall be examined for importation into the United States, or released by the Customs Service, under this chapter unless the importer or consignee of such tea or merchandise has paid, before the examination, a fee in an amount equal to—

- (1) 10 cents for each hundred weight or fraction thereof of the tea or merchandise; or
- (2) the approximate cost of the examinations;

whichever amount is less. Such fee shall be deposited into the Treasury of the United States as miscellaneous receipts.

(Mar. 2, 1897, ch. 358, § 13, formerly act July 1, 1941, ch. 269, title II, 55 Stat. 478; renumbered § 13 of act Mar. 2, 1897, and amended Aug. 10, 1993, Pub. L. 103-66, title IV, § 4401, 107 Stat. 378.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in the following appropriation act: June 27, 1940, ch. 437, title I, 54 Stat. 632.

AMENDMENTS

1993—Pub. L. 103-66, § 4401(2), amended section generally. Prior to amendment, section read as follows: "On and after July 1, 1940, no tea, or merchandise described as tea, shall be examined for importation into the United States, or released by the Collector, under this chapter unless the importer or consignee of such tea or merchandise, prior to such examination, has paid for deposit into the Treasury of the United States as miscellaneous receipts, a fee of 3.5 cents for each hundred weight or fraction thereof of such tea and merchandise."

§ 47. United States Board of Tea Appeals; permit for delivery; exportation or destruction of inferior grades

In case the collector, importer, or consignee shall protest against the finding of the examiner, the matter in dispute shall be referred for decision to the United States Board of Tea Appeals, to consist of three employees of the Department of Health and Human Services, to be designated by the Secretary of Health and Human Services. If such board shall, after due examination, find the tea in question to be equal in purity, quality, and fitness for consumption to the proper standards, a permit shall be issued by the collector for its release and delivery to the importer; but if upon such final reexamination by such board the tea shall be found to be inferior in purity, quality, and fitness for consumption to the said standards, the importer or consignee shall give a bond, with security satisfactory to the collector, to export said tea, or merchandise described as tea, out of the limits of the United States within a period of six months after such final reexamination; and if the same shall not have been exported within the time specified, the collector, at the expiration of that time, shall cause the same to be destroyed.

(Mar. 2, 1897, ch. 358, § 6, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712, 713; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953,

18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

CHANGE OF NAME

“Department of Health and Human Services” substituted in text for “Department of Health, Education, and Welfare” and “Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see note set out under section 41 of this title.

For abolition of the offices of the collector of customs, see note set out under section 44 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45 of this title.

§ 48. Reexamination; findings by examiner; assistance of experts

In cases of reexamination of teas, or merchandise described as teas, by the United States Board of Tea Appeals in pursuance of the provisions of this chapter, samples of the tea, or merchandise described as tea, in dispute, for transmission to such board for its decision, shall be put up and sealed by the examiner in the presence of the importer or consignee if he so desires, and transmitted to such board, together with a copy of the finding of the examiner, setting forth the cause of condemnation and the claim or ground of the protest of the importer relating to the same, such samples, and the papers therewith, to be distinguished by such mark that the same may be identified. The decision of such board shall be in writing, signed by them, and transmitted, together with the record and samples, within three days after the rendition thereof, to the collector, who shall forthwith furnish the examiner and the importer or consignee with a copy of said decision or finding. The United States Board of Tea Appeals shall be authorized to obtain the advice, when necessary, of persons skilled in the examination of teas, who shall each receive for his services in any particular case a compensation not exceeding \$5.

(Mar. 2, 1897, ch. 358, § 8, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712.)

TRANSFER OF FUNCTIONS

For abolition of the offices of the collector of customs, see note set out under section 44 of this title.

§ 49. Reimporting rejected teas; forfeiture

No imported teas which have been rejected by a customs examiner or by the United States Board of Tea Appeals, and exported under the provisions of this chapter, shall be reimported into the United States under the penalty of forfeiture for a violation of this prohibition.

(Mar. 2, 1897, ch. 358, § 9, 29 Stat. 606; May 31, 1920, ch. 217, 41 Stat. 712.)

§ 50. Regulations

The Secretary of Health and Human Services shall have the power to enforce the provisions of this chapter by appropriate regulations.

(Mar. 2, 1897, ch. 358, § 10, 29 Stat. 607; May 31, 1920, ch. 217, 41 Stat. 712; 1940 Reorg. Plan No. IV, § 12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695.)

CHANGE OF NAME

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see note set out under section 41 of this title.

CHAPTER 3—FILLED MILK

Sec.

61. Definitions.
62. Manufacture, shipment, or delivery for shipment in interstate or foreign commerce prohibited.
63. Penalties; acts of agents deemed acts of principals.
64. Regulations for enforcement.

FEDERAL FOOD, DRUG, AND COSMETIC ACT

By virtue of act June 25, 1938, ch. 675, § 902(c), 52 Stat. 1059 [section 392(b) of this title], nothing contained in section 301 et seq. of this title shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of sections 61 to 64 of this title.

BUREAU OF DAIRY INDUSTRY

General provisions, see sections 401 to 404 of Title 7, Agriculture.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 392 of this title.

§ 61. Definitions

Whenever used in this chapter—

(a) The term “person” includes an individual, partnership, corporation, or association;

(b) The term “interstate or foreign commerce” means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia; and

(c) The term “filled milk” means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition shall not in-